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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/639,290	08/15/2000	Kenneth M. Prockup	82626	1561

7590 06/21/2002

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EXAMINER

DAVIDSON, DAN

ART UNIT PAPER NUMBER

2651

DATE MAILED: 06/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/639,290	PROCKUP, KENNETH M.
	Examiner	Art Unit
	Dan I Davidson	2651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 05 June 2002.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 7 and 11 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 7 and 11 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). ____ .
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ . 6) Other: ____ .

DETAILED ACTION

1. The amendment filed June 5, 2002 has been received and has been made of record. An Office Action in response to the above amendment follows.
2. Claims 1-3, 6, and 9-10 have been canceled by Applicant in the above filed amendment.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Andersen (4,891,716 A).

Re claim 7; Andersen discloses a system for analyzing the performance of a tape recorder (Fig. 2) having a record input (Fig. 2, 32) and a playback head providing an output thereof (Fig. 2, 36), the system comprising: a signal generator (Fig. 2, 46, 40) comprising a serial arrangement of a microcontroller (Fig. 2, 46) and a digital-to-analog converter (inherent given that the programmable signal source 40 supplies an analog waveform) for repeatedly generating (col. 4, lines 23-26) for testing and adjustment purposes (col. 4, lines 9-18) the presence of a predetermined waveform for a predetermined duration which is routed to the record input of the tape recorder (Fig. 2, 40, 30, 32; col. 4, lines 29-32); an ADC receiving the output of the playback head and providing a corresponding digital signal thereof (Fig. 2, 42); a digital signal processor

that receives the digital signal and converts it into digital data representative of elementary components thereof (Fig. 2, 44; col. 4, lines 55-58); and means for receiving and analyzing the digital data to determine the performance of the tape recorder (Fig. 2, 46; col. 4, lines 61-65).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Andersen (4,891,716 A).

Re claim 11; all the limitations at this claim are satisfied by Andersen as discussed with respect to claim 7 above including the limitation of having a look-up table comprising a selectable predetermined waveform in a digital format (col. 4, lines 65-66) with the exception of the limitation that there be a plurality of selectable predetermined waveforms. Given no unexpected results, there is no patentable distinction between having a single selectable predetermined waveform or a plurality of selectable predetermined waveforms (since a memory could very easily hold a single selectable predetermined waveform or a plurality of selectable predetermined waveforms). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to have a plurality of waveforms in Andersen; motivation being an opportunity

to specify a predetermined waveform from multiple waveforms for use in testing the tape recorder (see Figs. 3 and 4 which illustrate different waveform spectrums).

Response to Arguments

7. Applicant's arguments with respect to claims 7 and 11 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Since the Examiner has instituted new grounds for rejection, this Action will not be final.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan I Davidson whose telephone number is (703) 308-8535. The examiner can normally be reached on Monday-Friday from 8:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R Hudspeth, can be reached on (703) 308-4825. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

DID

Dan I Davidson
June 17, 2002


DAVID HUDSPETH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800